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SEP 10 2004

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

SEP 10 2004

LEONARD GREEN, Clerk

JAMES BONINI, Clerk
CINCINNATI, OHIO

MAURICE ROGERS,
Petitioner-Appellant,

Appeals Court Case No. _____

vs.

ON APPEAL FROM DISTRICT COURT
CASE NO. 1:02cv79.

HARRY K. RUSSELL,
Respondent-Appellee

MOTION FOR EXTENSION OF TIME

Now comes the Petitioner-Appellant, Maurice Rogers, appearing in pro se, and respectfully move this Court for an 'Extension of Time' pursuant to 6 Circuit Rule 26(b) from the Federal Rules of Appellant Practice. The reasons for the 'extension' are articulated in the Memorandum attached hereto.

Wherefore, in the matter so stated, the petitioner-appellant request a 30 day extension to the required time.

Respectfully submitted,

Maurice Rogers
Maurice Rogers, pro se
LoCI #345-940
P.O. Box 69
London, OH 43140-0069

MEMORANDUM IN SUPPORT

The petitioner-appellant is now before this Court on appeal from the district court decision and denial of habeas corpus. The district court made its decision to grant petitioner-appellant certificate for appealability on August 23, 2004. The court adopted the May 27, 2004 Order and Judgment, and the court pursuant to 28 U.S.C. § 1915(a)(3) wherein the appeal would be taken in "good faith" and, therefore, granted petitioner-appellant leave to proceed on appeal in forma pauperis. However, the court did not clarify which grounds or issues petitioner-appellant could present before this Court that would show a constitutional denial of rights. See Else v. Johnson, 104 F.3d 82 (5th Cir.1997), and Lyons v. Ohio Adult Parole Authority, 105 F.3d 1565 (6th Cir.1997). The petitioner-appellant needs clarification on which grounds to appeal in order to perfect a proper appeal and an extension of time is hereby requested for the filing of appeal brief and for the further reasons that follows. **See Order by the court as Exhibit-A.**

The petitioner-appellant is requesting an extension of time for 30 additional days to obtain legal documents or decisions from the district court because petitioner-appellant legal papers came up missing or was destroyed in a mass prison shakedown on August 10, 2004, wherein all types of inmates property were lost or destroyed, and in my case my legal folder with my current court orders and decisions and or recommendation that I need to perfect my appeal. See Petitioner-Appellant **Affidavit and Letter** to district court clerk, **as Exhibit-B & C.**

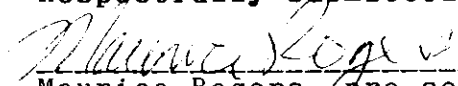
The petitioner-appellant is proceeding without the benefit of legal representation or para legal advisor. The petitioner-appellant

is untrained, unskilled, and not knowledgeable in law and is unable to represent himself competently in such a high court in a complex matter will take more time and tolerance from this Court. The Supreme Court has held in such cases as: Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594 (1972); Cruz v. Beto, 405 U.S. 319 (1972); and Boag v. MacDougall, 454 U.S. 364, 102 S.Ct. 700 (1982), that a liberal construction of pro se litigations and arguments should be warranted, and pro se pleadings should be held as true and to less stringent standards as those pleadings drafted by lawyers.

In this instant matter the petitioner-appellant believes he has a viable constitutional violations of his rights, but due to lack of skills and knowledge he suffers a handicap in the legal arena of disputation without professional counsel. Further, to add to the hinderance of submitting a brief the petitioner-appellant is missing important legal document to perfect his appeal due to a prison mishap, and need more time to recover these documents. And finally, the petitioner-appellant needs clarification on which issues he can appeal.

Wherefore, the petitioner-appellant moves this Court for an extension of time for 30 additional days to file appeal brief for all the reasons stated herein.

Respectfully submitted,


 Maurice Rogers, pro se
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 London, OH 43140-0069

CERTIFICATE OF SERVICE

This will certify that a true copy of the foregoing motion for Extension of Time was served upon the Attorney General Jim Petro, at Correction Litigation Section, 615 W. Superior Ave, 11th Floor, Cleveland, Ohio, 44113-1899, by U.S. Mail on this 9th day of September, 2004.

Respectfully submitted,



Maurice Rogers, pro se

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